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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

TRAVELERS CASUALTY AND SURETY COMPANY as  
Administrator for RELIANCE INSURANCE COMPANY,  
Plaintiff,

vs.

DORMITORY AUTHORITY - STATE OF NEW YORK, TDX  
CONSTRUCTION CORP. and KOHN PEDERSEN FOX  
ASSOCIATES, P.C.,

Defendants.

DORMITORY AUTHORITY OF THE STATE OF NEW  
YORK,

Third-Party Plaintiff,

vs.

TRATAROS CONSTRUCTION, INC.,

Third-Party Defendant.

TRATAROS CONSTRUCTION INC., and TRAVELERS  
CASUALTY AND SURETY COMPANY,

Fourth-Party Plaintiffs,

vs.

CAROLINA CASUALTY INSURANCE COMPANY;  
Et.Al.,

Fourth-Party Defendants.

Case No. 07-CV-6915 (DLC)  
ECF CASE

**AFFIDAVIT OF CHRISTINE  
HAMILTON IN SUPPORT OF OHIO  
CASUALTY INSURANCE  
COMPANY'S MOTION FOR  
SUMMARY JUDGMENT**

I Christine Hamilton, being of full age and duly sworn hereby  
deposes and says:

1. I am a Senior Claims Representative with Peerless Insurance  
Company, successor in interest to the Ohio Casualty Insurance  
Company, 9450 Seward Road, Fairfield, Ohio. As such I am responsible  
for overseeing the management of certain claims for Ohio Casualty  
Insurance Company.

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2. Ohio Casualty Insurance Company issued a certain general liability insurance policy to Bartec Industries, Inc. under policy Number BHO 52849621, for policy period May 26, 2001 to May 26, 2002. Exhibit A.

3. Ohio Casualty Insurance Company issued a certain umbrella Liability insurance policy to Bartec Industries, Inc., under policy Number BXO 52849621, for policy period May 26, 2001 to May 26, 2002. Exhibit B.

4. Each of the aforementioned Ohio Casualty Insurance policies contains a notice provision which requires a person or entity seeking coverage under the policy to notify Ohio Casualty Insurance Company of an "occurrence" or suit "as soon as practicable:

**2. Duties In The Event Of Occurrence,  
Offense, Claim Or Suit**

a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:

- (1) How, when and where the "occurrence" or offense took place;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

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b. If a claim is made or "suit" is brought against any insured, you must:

- (1) Immediately record the specifics of the claim or "suit" and the date received; and
- (2) Notify us as soon as practicable.

Your must see to it that we receive written notice of the claim or "suit" as soon as practicable.

c. You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit"; ...<sup>2</sup>

5. Ohio Casualty received notice from Bartec Industries, on December 2, 2003, regarding a Complaint asserted against Bartec in the matter of: R&J Construction Corp. v. Trataros Construction Inc., et al. New York Supreme Court, New York County under Index No. 113225/2003. That Complaint was dated July 18, 2003.

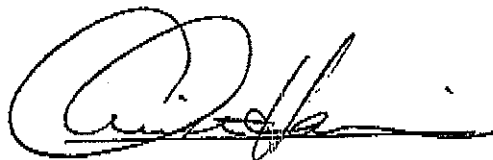
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<sup>2</sup> The policy language differs only slightly between the policies, but is nearly identical in all practical affects.

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6. Upon receipt of the notice of claim, Ohio Casualty investigated the factual matter, and promptly disclaimed coverage.



Christine Hamilton, AIC

Sworn and subscribed before me  
On this 9 day of August, 2008;

  
Notary public

Patricia J. Dougherty  
Notary Public, State of New York  
No. 01DO4505038  
Qualified in Onondaga County  
Commission Expires 9/30/2009

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